

**Bakke
Grinolds
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ATTORNEYS AT LAW

May 16, 2023

Via Hand-Delivery

Steve Kahl
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

**Re: SCS Carbon Transport LLC
Midwest Carbon Express Project
Case No: PU-22-391**

Dear Mr. Kahl:

Enclosed for filing in Case No. PU-22-391, please find *Petition to Intervene by Chad Wachter* and *Petition to Intervene by Chad Moldenhauer*, with seven copies of same.

Please do not hesitate to contact the undersigned if you have any questions about this filing.

Very Truly Yours,

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Petitions to Intervene by Chad Wachter and Chad Moldenhauer
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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

SCS Carbon Transport LLC
Midwest Carbon Express CO2 Pipeline Project
Sitting Application

Case No: PU-22-391
OAH File No: 20230002

PETITION TO INTERVENE BY CHAD WACHTER

Pursuant to N.D.A.C. § 69-02-02-05, Chad Wachter, by and through his attorneys Randall J. Bakke and Bradley N. Wiederholt (hereinafter, "Mr. Wachter"), hereby make this petition to intervene in the above-captioned proceedings. In support of this petition, Mr. Wachter states and alleges as follows:

1. Mr. Wachter is a life long resident of Bismarck and Burleigh County, North Dakota. The Wachter family's involvement in land use issues, planning, and development in the Bismarck/Mandan and Burleigh County area is well known, and has been ongoing for several decades. Mr. Wachter has personally and through various of his companies been involved in the development of numerous residential neighborhoods and commercial areas within Bismarck and Burleigh County, including the following:

1. Copper Ridge Subdivision,
2. Cottonwood Lake Development,
3. Falconer Estates,
4. Prairiewood Estates,
5. Promontory Point Development,
6. Silver Ranch Development and
7. South Meadows Estates.

2. Mr. Wachter is also an owner of the real estate agency Trademark Realty since 2003, and has been involved in numerous retail and other business in the Bismarck/Mandan community, including Big Boy, Blarney Stone Pub, Cork and Bottle Shop, Dakota Sand and Gravel Company, Triton Homes, Inc., Home Run C-Store, House of Bottles, and other businesses. Mr. Wachter also owns and operates numerous apartment complexes and other commercial properties in the Bismarck area.

3. Mr. Wachter is the owner and developer of a newer subdivision just east of Bismarck in Burleigh County known as Silver Ranch, which consists of 2,000 acres, 250 existing homes and a plan to build 2,500 more homes over the next 30 years.

4. A public elementary school, the Silver Ranch Elementary School, has been built and is currently in operation in the Silver Ranch development.

5. Mr. Wachter was contacted by SCS Carbon Transport LLC (hereinafter "Summit Carbon") sometime in 2022, wherein Summit Carbon requested an easement through Silver Ranch for the Carbon Dioxide pipeline at issue in these proceedings. Summit Carbon threatened Mr. Wachter with eminent domain to secure such easement if he would not voluntarily agree to provide the easement.

6. Summit Carbon also approached Mr. Wachter at about the same time requesting to conduct a land survey on Silver Ranch property, which Mr. Wachter refused. Summit Carbon advised Mr. Wachter that it would proceed with the land survey through the Silver Ranch property regardless of Mr. Wachter's refusal. Mr. Wachter does not know if Summit Carbon conducted a survey on Silver Ranch property.

7. Based on his understanding of the proposed Carbon Dioxide pipeline route, the route will run approximately (2) two miles from the eastern edge of the Silver Ranch development, and the pipeline is within two miles of Silver Ranch Elementary School.

8. Mr. Wachter is aware that the dense or supercritical phase Carbon Dioxide that will run through the 24" pipeline under high pressure could pose significant health risks and could lead to fatalities, if a leak should occur. The dangers to human life and health increase to the extent the pipeline is allowed to be sited closer to Bismarck and Burleigh County population centers and closer to schools such as Silver Ranch Elementary School. Mr. Wachter believes the risks associated with siting the pipeline so close to the Silver Ranch Elementary School and the Silver Ranch Development are simply too high to take with an untested Carbon Dioxide pipeline like the one Summit Carbon proposes here.

9. Moreover, because the organic growth of Bismarck and Burleigh County is to the East, to the North, and to the Northeast, the pipeline could essentially be right in the middle of even higher population areas in a matter of just a few decades, leading to even greater risks to human life and health, not to mention the significant detriment to the development and growth of Bismarck and Burleigh County.

10. Based on his significant experience with land use and development issues, Mr. Wachter believes the pipeline and the dangers associated with it will serve as a barrier to the natural development and growth of the City to the East, to the North, and to the Northeast. The proposed route is directly through a populated rural residential area adjacent to Bismarck's Extra-Territorial Area (ETA), which is the focus of current and future growth for Bismarck. It will in effect confine Bismarck's growth to the south of the proposed Pipeline. Similar concerns apply to Burleigh County developments as well.


11. Because of the foregoing factors and especially because of the serious health and safety consequences of a leak, Mr. Wachter opposes the proposed route. He believes the Carbon Dioxide pipe should be sited to more rural areas well outside of the population centers of Bismarck and Burleigh County, at least twenty five (25) miles beyond Bismarck's ETA.

12. As reflected above, Mr. Wachter has a direct and substantial interest in these proceedings, as well as legal property rights which may be substantially affected by the ND Public Service Commission's findings and conclusions in this matter. Mr. Wachter is intimately familiar with the Silver Ranch property, the land to the East and Northeast of Bismarck, as well as with the planning and growth of the City of Bismarck. Mr. Wachter can provide the Public Service Commission with specific information on these issues in these proceedings.

13. Mr. Wachter's interests are not adequately represented by the existing parties, and his intervention would not unduly broaden the issues or delay the proceedings.

14. Mr. Wachter does not oppose the pipeline generally, but he is opposed to the portion of the Pipeline that proposes to cross any land within 25 miles from the extra-territorial limits of the City of Bismack.

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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

SCS Carbon Transport LLC
Midwest Carbon Express CO2 Pipeline Project
Sitting Application

Case No: PU-22-391
OAH File No: 20230002

PETITION TO INTERVENE BY CHAD MOLDENHAUER

Pursuant to N.D.A.C. § 69-02-02-05, Chad Moldenhauer, by and through his attorneys Randall J. Bakke and Bradley N. Wiederholt (hereinafter, "Mr. Moldenhauer"), hereby make this petition to intervene in the above-captioned proceedings. In support of this petition, Mr. Moldenhauer states and alleges as follows:

1. Mr. Moldenhauer has been a life long resident of Bismarck and Burleigh County, North Dakota. He graduated from Concordia College in Moorhead, Minnesota with a BA in Business in 2005. He then attended law school and graduated from the University of North Dakota School of Law in 2008.
2. He started out in the homebuilding industry working with his father through K & L Homes, Inc. which was founded in 1978. K & L Homes, Inc. has been involved in developing and building homes in Bismarck since that time, including developing the K & L Development located North of West Century Avenue in NW Bismarck, East of Valley Drive. Mr. Moldenhauer assisted with homebuilding in that development.
3. He took over ownership of K & L Homes, Inc. in 2009 and since that time has constructed over 400 homes in the Bismarck/Mandan area. Mr. Moldenhauer also obtained his real estate brokerage license in 2009 with K & L Realty, Inc.

4. Mr. Moldenhauer has continued to be extensively involved personally and through his companies in real estate development in Bismarck and Burleigh County. Since 2016, he has been involved in the following developments in the City of Bismarck and Burleigh County, North Dakota:

- a. Heritage Ridge: Located in northwest Bismarck, north of 57th Avenue and west of North Washington Avenue consisting of 110 lots.
- b. Heritage Park: Located in northwest Bismarck, north of 57th Avenue and west of North Washington Avenue consisting of 190 lots.
- c. Heritage Cottage: Located in northwest Bismarck, north of 57th Avenue and west of North Washington Avenue consisting of 114 rental units.
- d. Heritage Reserve: This is a newer subdivision just north of Bismarck in Burleigh County, just off of Highway 83.

5. Phase 1 of Heritage Reserve was approved by Burleigh County in 2018 and consists of 60 lots on 77 acres. It is located 4.3 miles North of Costco, just North of 110th Avenue NE. The total project is 180 lots on 244 acres (located in Township 140, Range 80, Section 22). The project also includes a park, unique entrance and centralized sewer system.

6. As Mr. Moldenauer understands the proposed Summit route, the location of the Carbon Dioxide pipeline as presently proposed by SCS Carbon Transport LLC (hereinafter “Summit Carbon”) is approximately 4,000 feet away from the residential lots in the first phase of Heritage Reserve, approximately 2,400 feet away from the centralized sewer system for Heritage Reserve, and 2,000 feet away from the lots that are planned to be developed in future phases of this development.

7. Mr. Moldenhauer was first contacted by Summit Carbon sometime in the fall of 2021 and was informed that a Carbon Dioxide pipeline was going to be placed adjacent to 110th Avenue Northeast near Bismarck in Burleigh County, which is very near the Heritage Reserve development.

8. In June of 2022 Mr. Moldenhauer became aware that the pipeline was being proposed essentially right over one of his properties in the Heritage Reserve development. He called Summit Carbon to let them know the pipeline was incompatible with his development and was told it would be moved. In October of 2022, Mr. Moldenhauer looked up the route on Summit Carbon's website and it appeared the pipeline route remained right on the edge of his development, but was again told by Summit Carbon the route had actually been moved half a mile away. It is unknown based on Summit Carbon's testimony and maps provided in these proceedings precisely where it is requesting to site the pipeline in relation to Heritage Reserve.

9. Mr. Moldenhauer is aware that the dense or supercritical phase Carbon Dioxide that will run through the 24" pipeline under high pressure could pose significant health risks and could lead to fatalities, if a leak should occur. The dangers to human life and health increase to the extent the pipeline is allowed to be sited closer to Bismarck and Burleigh County population centers and closer to schools and residential developments like Heritage Reserve. Mr. Moldenhauer believes the risks associated with siting the pipeline so close to schools and the Heritage Reserve development are simply too high to take with an untested Carbon Dioxide pipeline like the one Summit Carbon proposes here.

10. Moreover, because the organic growth of Bismarck and Burleigh County is to the East, to the North, and to the Northeast, the pipeline could essentially be right in the middle of even higher population areas in a matter of just a few decades, leading to even greater risks to human

life and health, not to mention the significant detriment to the development and growth of Bismarck and Burleigh County.

11. Based on his significant experience with land use and development issues, Mr. Moldenhauer believes the pipeline and the dangers associated with it will serve as a barrier to the natural development and growth of the City to the East, to the North, and to the Northeast. The proposed route is directly through a populated rural residential area adjacent to Bismarck's Extra-Territorial Area (ETA), which is the focus of current and future growth for Bismarck. It will in effect confine Bismarck's growth to the south of the proposed Pipeline. Similar concerns apply to Burleigh County developments as well.


12. Because of the foregoing factors and especially because of the serious health and safety consequences of a leak, Mr. Moldenhauer opposes the proposed route. He believes the Carbon Dioxide pipe should be sited to more rural areas well outside of the population centers of Bismarck and Burleigh County, at least twenty five (25) miles beyond Bismarck's ETA.

13. As reflected above, Mr. Moldenhauer has a direct and substantial interest in these proceedings, as well as legal property rights which may be substantially affected by the ND Public Service Commission's findings and conclusions in this matter. Mr. Moldenhauer is intimately familiar with the Heritage Reserve development, the land to the North and Northeast of Bismarck, as well as with the planning and growth of the City of Bismarck. Mr. Moldenhauer can provide the Public Service Commission with specific information on these issues in these proceedings.

14. Mr. Moldenhauer's interests are not adequately represented by the existing parties, and his intervention would not unduly broaden the issues or delay the proceedings.

15. Mr. Moldenhauer does not oppose the pipeline generally, but he is opposed to the portion of the pipeline that proposes to cross any land within 25 miles from the extra-territorial limits of the City of Bismack.

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the following documents:

1. *Filing Letter to Steve Kahl from Randall Bakke dated May 16, 2023;*
2. *Petition to Intervene by Chad Wachter; and*
3. *Petition to Intervene by Chad Moldenhauer.*

were on May 16, 2023, filed with the North Dakota Public Service Commission and served electronically to the following:

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Dated this 16th day of May, 2023.

BAKKE GRINOLDS WIEDERHOLT

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Jr. as Trustee of the John H. Warford, Jr.
Revocable Trust